

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARCUS TERRELL FLEMING,

Plaintiff,

v.

THOMAS MOORE, MD,

Defendant.

1:24-cv-00083-EPG (PC)

ORDER TO ASSIGN A DISTRICT JUDGE

FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT THIS ACTION BE
DISMISSED, WITHOUT PREJUDICE

OBJECTIONS, IF ANY, DUE WITHIN
THIRTY DAYS

Plaintiff Marcus Terrell Fleming is a prisoner proceeding *pro se* in this civil rights lawsuit filed pursuant to 42 U.S.C. § 1983. After Plaintiff failed to submit an application to proceed *in forma pauperis* or pay the filing fee, the Court issued an order on January 19, 2024, giving Plaintiff forty-five days to do either and warning of dismissal if Plaintiff failed to comply. (ECF No. 3). The forty-five-day period has expired, and Plaintiff has failed to pay the filing fee, submit an IFP application, or otherwise respond to the Court's order.

Accordingly, **IT IS ORDERED** that the Clerk of Court shall assign a district judge to this case.

And **IT IS RECOMMENDED** that:

1. This action be dismissed, without prejudice, for Plaintiff's failure to pay the filing fee pursuant to 28 U.S.C. § 1914 or to file an application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915; and

2. The Clerk of Court be directed to close this case.

3. Alternatively, if Plaintiff files a proper *in forma pauperis* application or pays the filing fee within thirty days, this Court will vacate these findings and recommendations.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within thirty days after being served with these findings and recommendations, Plaintiff may file written objections with the Court. Such a document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.”

Plaintiff is advised that failure to file objections within the specified time may result in the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838–39 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: **March 18, 2024**

/s/ Eric P. Grosz
UNITED STATES MAGISTRATE JUDGE